

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. R4-2008-0165-M
)	Mandatory Minimum Penalty for
Venoco, Inc.)	Violation of California Water Code § 13376
Emma Wood State Beach Crude Oil)	and
Pipeline Excavation Project)	Order No. R4-2003-0111
Ventura, California)	(NPDES No. CAG994004)

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to Venoco, Inc. (hereinafter Permittee) based on a finding of violations of waste discharge requirements prescribed in Order No. R4-2003-0111 (NPDES No. CAG994004, CI No. 9270).

The Assistant Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:

1. The Permittee operated the Emma Wood State Beach Crude Oil Excavation Project (hereinafter facility) located at Emma Wood State Park, Ventura. The Permittee discharges up to 720,000 gallons per day (gpd) of groundwater at the facility (Latitude 34°16'42", Longitude 119°18'46"). The wastewater is susceptible of containing lead and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows to the Ventura River, a navigable water of the United States.
2. On June 6, 2007, the Executive Officer of the Regional Board determined that the waste discharges from the Permittee's facility met the conditions to be enrolled under Board Order No. R4-2003-0111 adopted by the Regional Board on August 7, 2003, and the facility was so enrolled effective June 6, 2007. Board Order No. R4-2003-0111 serves as General NPDES Permit No. CAG994004 (*General National Pollutant Discharge Elimination System Permit and Waste Discharge Requirements for Discharges of Groundwater From Construction and Project Dewatering to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties*).
3. Order No. R4-2003-0111 (Part E.1.b pages 16-17) includes the following effluent limitation for lead:

Constituent	Unit of Measure	Discharge Limitations		
		Daily Maximum	7-day Average	Monthly Average
Lead	mg/L	25.6	--	12.8

mg/L = milligrams/liter

October 30, 2009

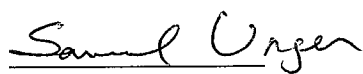
4. Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.
5. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
6. One (1) violation of Order No. R4-2003-0111 was noted in the Permittee's 2nd Quarter 2007 self-monitoring report, which is an effluent limit exceedance for lead. The violation is identified in Exhibit "A" attached hereto and incorporated herein by reference.
7. On December 2, 2008, the Chief Deputy Executive Officer of the Regional Board issued the Permittee Offer to participate in Expedited Payment Program (EPP) No. R4-2008-0165-M, which included a Notice of Violation notifying the Permittee of the two (2) effluent limitation violations that occurred on June 27, 2007 of which, one was subject to mandatory minimum penalties.
8. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2), a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.
9. Lead is a Group II pollutant.
10. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
11. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385(c) is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

12. The Assistant Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$3,000 for the violation which occurred on June 27, 2007. Refer to Exhibit "A" for the calculation of the amount of mandatory minimum penalty.
13. The Permittee may waive the right to a hearing and pay the recommended administrative civil liability. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return it to the Regional Board by 5:00 pm on November 20, 2009. If the hearing is waived, a check in the

amount of \$3,000 (payable to the State Water Pollution Cleanup and Abatement Account) must be received by the Regional Board by 5:00 pm on November 20, 2009.

14. If the Regional Board does not receive a waiver and full payment of the recommended penalty by November 20, 2009, the Complaint will be heard before the Regional Board or Regional Board Hearing Panel pursuant to California Water Code §§ 13228.14 and 13323. The Notice of Public Hearing contains that date, time, location, and specific procedures of the scheduled hearing of this matter.
15. If a hearing on this matter is held, the Regional Board will consider whether to affirm, reject, or modify (i.e. increase the proposed civil liability above the mandatory minimum) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.
16. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
17. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
18. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
19. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.



Samuel Unger, P.E.
Assistant Executive Officer
Los Angeles Regional Water Quality Control Board

October 30, 2009

WAIVER FORM

FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R4-2008-0165-M

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Venoco, Inc. (hereinafter "Permittee") in connection with Administrative Civil Liability Complaint No. R4-2008-0165-M (hereinafter the "Complaint"). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing."

☐ *Check here if the Permittee waives the hearing requirement and will pay the recommended liability.*

- a. I hereby waive any right the Permittee may have to a hearing before the Regional Water Board.
- b. I certify that the Permittee will remit payment for the proposed civil liability in the full amount of **\$3,000** by check that references "ACL Complaint No. R4-2008-0165-M" made payable to the "*State Water Pollution Cleanup and Abatement Account*". Payment must be received by the Regional Water Board by **November 20, 2009** or this matter will be placed on the Regional Board's agenda for a hearing as initially proposed in the Complaint.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period expires. Should the Regional Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water Board's Chief Deputy Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Permittee having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Permittee to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

Complaint No. R4-2008-0165-M

EXHIBIT "A"
Effluent Limit Violations

Venoco Inc.
Emma Wood State Beach Crude
Oil Pipeline Excavation Proj.
CI No. 9270

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/ Chronic	Water Code Section 13385	Penalty
06/27/07	2nd Quarter 2007	Monthly Average	Lead	17	12.8	ug/L	2	33%	Serious	(h)1	\$3,000
										Total	\$3,000